

Docket No. No. P14979-A
(YAM.046)



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

Yoshitaka FUJITA

Serial No.: 10/050,600

Group Art Unit: 2616

Filed: January 18, 2002

Examiner: Shand, Roberta A.

For: MULTIPLEXING METHOD AND APPARATUS, DEMULTIPLEXING
METHOD AND APPARATUS, AND ACCESS NETWORK SYSTEM

Honorable Commissioner of Patents
Alexandria, VA 22313-1450

DECLARATION UNDER RULE 37 C.F.R. § 1.131

Sir:

I (Yoshitaka FUJITA), do hereby state that:

1) I am the sole inventor of the above-identified application.
2) The MULTIPLEXING METHOD AND APPARATUS,
DEMULTIPLEXING METHOD AND APPARATUS, AND ACCESS NETWORK
SYSTEM was known to me earlier than January 3, 2001, as shown in the enclosed
“Dependent or Connected Invention Notification, Assignment, Argument (Extract)”
(Exhibit 1) and English translation thereof (Exhibit 2), together with a Description of the
Invention and Drawings (Exhibit 3), and English Translation thereof (Exhibit 4).

3) The effective date of the “Dependent or Connected Invention Notification,
Assignment, Argument (Extract)” (Exhibits 1 and 2) and Description of the Invention and
Drawings (Exhibits 3 and 4) are earlier than January 3, 2001 and the dates thereof have
been redacted.

4) The “Dependent or Connected Invention Notification, Assignment, Argument (Extract)” (Exhibit 1) and Description of the Invention and Drawings (Exhibit 3) were forwarded to the Division Manager, Kou Murakami earlier than January 3, 2001 and the Division Manager, Kou Murakami’s decision on the patentability of the invention was entered earlier than January 3, 2001; and the application and the executed formal papers were filed in the Japan Patent Office on January 22, 2001.

5) The contents of the enclosed “Dependent or Connected Invention Notification, Assignment, Argument (Extract)” (Exhibit 1) and Description of the Invention and Drawings (Exhibit 3) have been incorporated into the specification of the present invention, upon which claims 1-27 are based.

6) The above clearly evidences a completion of the invention (e.g., an actual reduction to practice) in the United States, a NAFTA or WTO member country before the filing date (e.g., January 3, 2001) of U.S. Patent Application Publication No. 2002/0085591A1 to Mesh. Therefore, the U.S. Patent Application Publication 2002/0085591A1 to Mesh is removed as prior art under 35 U.S.C. § 102(e).

7) In the alternative, I declare that the claimed invention was conceived prior to January 3, 2001 (e.g., as shown by the attached “Dependent or Connected Invention Notification, Assignment, Argument (Extract)” (Exhibit 1) and Description of the Invention and Drawings (Exhibit 3) having a date (now redacted) prior to January 3, 2001 and, coupled with due diligence from a date before January 3, 2001, until the invention was constructively reduced to practice on January 22, 2001. That is, the application and the executed formal papers for Japanese Application Serial No. JP 2001-012997, from which the present application claims foreign priority under 35 U.S.C. § 119, were filed in the Japan Patent Office on January 22, 2001.

8) The facts above in **6)** clearly show a completion of the invention in a NAFTA or WTO member country before January 3, 2001. Alternatively, the facts in **7)** above show a conception of the invention prior to January 3, 2001, and due diligence from just before January 3, 2001, until the filing date (i.e., the constructive reduction to practice) of the foreign priority application on January 22, 2001.

I hereby declare that all statements made here of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Further declarant sayeth not.

Date: _____

Yoshitaka FUJITA